

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRIS LEONG
Deputy Attorney General
4 State Bar No. 141079
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 269-6460
Facsimile: (916) 731-2117
7 E-mail: chris.leong@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the First Amended Accusation
Against:

13
14 **YASMIN FEROZ QASIM, M.D.**
24077 Gold Rush Dr.
15 Diamond Bar, CA 91765

16 **Physician's and Surgeon's Certificate**
No. A 47990,

17 Respondent.
18

Case No. 800-2015-018481

OAH No. 2019020745

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:
21

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Chris Leong,
26 Deputy Attorney General.

27 //

28 //

2. Respondent Yasmin Feroz Qasim, M.D. (Respondent) is represented in this proceeding by attorney Albert J. Garcia, whose address is: 2000 Powell Street, Ste. 1290 Emeryville, CA 94608.

3. On or about February 20, 1990, the Board issued Physician's and Surgeon's Certificate No. A 47990 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-018481, and will expire on August 31, 2021, unless renewed.

JURISDICTION

4. The First Amended Accusation No. 800-2015-018481 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 11, 2018. Respondent timely filed her Notice of Defense contesting the Accusation. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on June 7, 2019.

5. A copy of First Amended Accusation No. 800-2015-018481 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2015-018481. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

///

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended Accusation No. 800-2015-018481, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate. This discipline relates solely to the inadequate supervision of a cosmetic medical spa and not to the practice of Pathology.

10. For the purpose of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima facie case for the charges in the Accusation, and that Respondent hereby gives up her right to contest those charges.

11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

12. Respondent agrees that if she ever petitions for early termination of probation or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in First Amended Accusation No. 800-2015-018481, shall be deemed true, correct and fully admitted by Respondent for purpose of that proceeding or any other licensing proceeding involving Respondent in the State of California.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal

1 action between the parties, and the Board shall not be disqualified from further action by having
2 considered this matter.

3 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
4 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
5 signatures thereto, shall have the same force and effect as the originals.

6 15. In consideration of the foregoing admissions and stipulations, the parties agree that
7 the Board may, without further notice or formal proceeding, issue and enter the following
8 Disciplinary Order:

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 47990 issued
11 to Respondent Yasmin Feroz Qasim, M.D. is revoked. However, the revocation is stayed and
12 Respondent is placed on probation for thirty-five (35) months on the following terms and
13 conditions.

14 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
15 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
16 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
17 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
18 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
19 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
20 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
21 completion of each course, the Board or its designee may administer an examination to test
22 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
23 hours of CME of which 40 hours were in satisfaction of this condition.

24 2. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within 60 calendar days of
25 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
26 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
27 Respondent shall participate in and successfully complete that program. Respondent shall
28 provide any information and documents that the program may deem pertinent. Respondent shall

1 successfully complete the classroom component of the program not later than six (6) months after
2 Respondent's initial enrollment, and the longitudinal component of the program not later than the
3 time specified by the program, but no later than one (1) year after attending the classroom
4 component. The professionalism program shall be at Respondent's expense and shall be in
5 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

6 A professionalism program taken after the acts that gave rise to the charges in the
7 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
8 or its designee, be accepted towards the fulfillment of this condition if the program would have
9 been approved by the Board or its designee had the program been taken after the effective date of
10 this Decision.

11 Respondent shall submit a certification of successful completion to the Board or its
12 designee not later than 15 calendar days after successfully completing the program or not later
13 than 15 calendar days after the effective date of the Decision, whichever is later.

14 3. PROHIBITED PRACTICE. During probation, Respondent is prohibited as follows:
15 Respondent shall not be associated with any medical spa or in partnership with anyone related to
16 a medical spa or facility performing cosmetic procedures; and prohibited from employing or
17 supervising any individuals who perform medical cosmetic procedures. Except that, Respondent
18 may receive training in cosmetic procedures under the proctorship of a board-certified Plastic
19 Surgeon, but not in a medical spa. Respondent shall submit to the Board or its designee for
20 approval the name and qualifications of one or more physicians and surgeons whose licenses are
21 valid and in good standing and who are certified by the American Board of Plastic Surgery before
22 commencing such training.

23 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
24 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
25 Chief Executive Officer at every hospital where privileges or membership are extended to
26 Respondent, at any other facility where Respondent engages in the practice of medicine,
27 including all physician and locum tenens registries or other similar agencies, and to the Chief
28 Executive Officer at every insurance carrier which extends malpractice insurance coverage to

Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

7. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

8. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Board's Special

1 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
2 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
3 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

4 Respondent's period of non-practice while on probation shall not exceed two (2) years.

5 Periods of non-practice will not apply to the reduction of the probationary term.

6 Periods of non-practice for a Respondent residing outside of California will relieve
7 Respondent of the responsibility to comply with the probationary terms and conditions with the
8 exception of this condition and the following terms and conditions of probation: Obey All Laws;
9 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
10 Controlled Substances; and Biological Fluid Testing.

11 11. COMPLETION OF PROBATION. Respondent shall comply with all financial
12 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
13 completion of probation. Upon successful completion of probation, Respondent's certificate shall
14 be fully restored.

15 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
16 of probation is a violation of probation. If Respondent violates probation in any respect, the
17 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
18 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
19 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
20 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
21 the matter is final.

22 13. LICENSE SURRENDER. Following the effective date of this Decision, if
23 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
24 the terms and conditions of probation, Respondent may request to surrender his or her license.
25 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
26 determining whether or not to grant the request, or to take any other action deemed appropriate
27 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
28 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its

1 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
2 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
3 application shall be treated as a petition for reinstatement of a revoked certificate.

4 14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
5 with probation monitoring each and every year of probation, as designated by the Board, which
6 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
7 California and delivered to the Board or its designee no later than January 31 of each calendar
8 year.

9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, Albert J. Garcia. I understand the stipulation and the effect it will
12 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
13 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
14 Decision and Order of the Medical Board of California.

15
16 DATED:

8/2/19

17 Yasmin Feroz Qasim
YASMIN FEROZ QASIM, M.D.
Respondent

18 I have read and fully discussed with Respondent Yasmin Feroz Qasim, M.D. the terms and
19 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
20 I approve its form and content.

21 DATED: August 2, 2019

22 Albert Garcia
ALBERT J. GARCIA
Attorney for Respondent

23
24 //

25 //

26 //

27 //

28 //


ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 8/2/2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


CHRIS LEONG
Deputy Attorney General
Attorneys for Complainant

LA2018502718
53618496.docx

Exhibit A

Accusation No. 800-2015-018481

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 7 20 19
BY D. Richards ANALYST

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRIS LEONG
Deputy Attorney General
4 State Bar No. 141079
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 269-6460
Facsimile: (213) 897-9395
7 E-mail: chris.leong@doj.ca.gov
Attorneys for Complainant

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
Against:

13 YASMIN FEROZ QASIM, M.D.

14 9333 Imperial Highway
15 Downey, California 90242-2812

16 Physician's and Surgeon's Certificate A 47990,

17 Respondent.

Case No. 800-2015-018481

OAH Case No. 2019020745 (Lead Case)

FIRST AMENDED ACCUSATION

18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in
22 her official capacity as the Executive Director of the Medical Board of California (Board).

23 2. On February 20, 1990, the Board issued Physician's and Surgeon's Certificate
24 Number A 47990 to Yasmin Feroz Qasim, M.D. (Respondent). That license was in full force and
25 effect at all times relevant to the charges brought herein and will expire on August 31, 2019,
26 unless renewed.

27 //

28 //

JURISDICTION

3. This First Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
2 violation of, or conspiring to violate any provision of this chapter.

3 “(b) Gross negligence.

4 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from
6 the applicable standard of care shall constitute repeated negligent acts.

7 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate for
8 that negligent diagnosis of the patient shall constitute a single negligent act.

9 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a
11 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
12 applicable standard of care, each departure constitutes a separate and distinct breach of the
13 standard of care.

14 “(d) Incompetence.

15 “(e) The commission of any act involving dishonesty or corruption which is substantially
16 related to the qualifications, functions, or duties of a physician and surgeon.

17 “(f) Any action or conduct which would have warranted the denial of a certificate.

18 “(g) The practice of medicine from this state into another state or country without meeting
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
20 apply to this subdivision. This subdivision shall become operative upon the implementation of
21 the proposed registration program described in Section 2052.5.

22 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
23 participate in an interview by the board. This subdivision shall only apply to a certificate holder
24 who is the subject of an investigation by the board.”

25 6. Section 2285 of the Code states:

26 “The use of any fictitious, false, or assumed name, or any name other than his or her own
27 by a licensee either alone, in conjunction with a partnership or group, or as the name of a
28 professional corporation, in any public communication, advertisement, sign, or announcement of

1 his or her practice without a fictitious-name permit obtained pursuant to Section 2415 constitutes
2 unprofessional conduct. This section shall not apply to the following:

3 “(a) Licensees who are employed by a partnership, a group, or a professional corporation
4 that holds a fictitious name permit.

5 “(b) Licensees who contract with, are employed by, or are on the staff of, any clinic
6 licensed by the State Department of Health Services under Chapter 1 (commencing with Section
7 1200) of Division 2 of the Health and Safety Code.

8 “(c) An outpatient surgery setting granted a Certificate of accreditation from an
9 accreditation agency approved by the medical board.

10 “(d) Any medical school approved by the division or a faculty practice plan connected with
11 the medical school.”

12 7. Section 1246 of the Code states in part:

13 “(a) Except as provided in subdivisions (b) and (c), and in Section 23158 of the Vehicle
14 Code, an unlicensed person employed by a licensed clinical laboratory may perform venipuncture
15 or skin puncture for the purpose of withdrawing blood or for clinical laboratory test purposes
16 upon specific authorization from a licensed physician and surgeon provided that he or she meets
17 both of the following requirements:

18 “(1) He or she works under the supervision of a person licensed under this chapter or
19 of a licensed physician and surgeon or of a licensed registered nurse. A person licensed under
20 this chapter, a licensed physician or surgeon, or a registered nurse shall be physically available to
21 be summoned to the scene of the venipuncture within five minutes during the performance of
22 those procedures.

23 “...

24 “(2) The department shall adopt regulations for certification by January 1, 2001, as a
25 certified phlebotomy technician that shall include all of the following:

26 “(A) The applicant shall hold a valid, current certification as a phlebotomist
27 issued by a national accreditation agency approved by the department, and shall submit proof of
28 that certification when applying for certification pursuant to this section.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

“...

“(E) He or she works under the supervision of a licensed physician and surgeon, licensed registered nurse, or person licensed under this chapter, or the designee of a licensed physician and surgeon or the designee of a person licensed under this chapter.

“...

“(B) As used in this paragraph, “general supervision” means that the supervisor of the technician is licensed under this code as a physician and surgeon, physician assistant, clinical laboratory bioanalyst, registered nurse, or clinical laboratory scientist, and reviews the competency of the technician before the technician may perform blood withdrawals without direct supervision, and on an annual basis thereafter. The supervisor is also required to review the work of the technician at least once a month to ensure compliance with venipuncture policies, procedures, and regulations. The supervisor, or another person licensed under this code as a physician and surgeon, physician assistant, clinical laboratory bioanalyst, registered nurse, or clinical laboratory scientist, shall be accessible to the location where the technician is working to provide onsite, telephone, or electronic consultation, within 30 minutes when needed.”

8. Section 2052 of the Code states:

“(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter, or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law, is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

//

//

1 “(b) Any person who conspires with or aids or abets another to commit any act described in
2 subdivision (a) is guilty of a public offense, subject to the punishment described in that
3 subdivision.

4 “(c) The remedy provided in this section shall not preclude any other remedy provided by
5 law.”

6 9. California Business and Professions Code Section 2069 states:

7 “(a) (1) Notwithstanding any other law, a medical assistant may administer medication
8 only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and
9 additional technical supportive services upon the specific authorization and supervision of a
10 licensed physician and surgeon or a licensed podiatrist. A medical assistant may also perform all
11 these tasks and services upon the specific authorization of a physician assistant, a nurse
12 practitioner, or a certified nurse-midwife.

13 “(2) The supervising physician and surgeon may, at his or her discretion, in
14 consultation with the nurse practitioner, certified nurse-midwife, or physician assistant, provide
15 written instructions to be followed by a medical assistant in the performance of tasks or
16 supportive services. These written instructions may provide that the supervisory function for the
17 medical assistant for these tasks or supportive services may be delegated to the nurse practitioner,
18 certified nurse-midwife, or physician assistant within the standardized procedures or protocol, and
19 that tasks may be performed when the supervising physician and surgeon is not onsite, if either of
20 the following apply:

21 “(A) The nurse practitioner or certified nurse-midwife is functioning pursuant to
22 standardized procedures, as defined by Section 2725, or protocol. The standardized procedures or
23 protocol, including instructions for specific authorizations, shall be developed and approved by
24 the supervising physician and surgeon and the nurse practitioner or certified nurse-midwife.

25 “(B) The physician assistant is functioning pursuant to regulated services defined in
26 Section 3502, including instructions for specific authorizations, and is approved to do so by the
27 supervising physician and surgeon.

28 //

1 “(b) As used in this section and Sections 2070 and 2071, the following definitions apply:

2 “(1) ‘Medical assistant’ means a person who may be unlicensed, who performs basic
3 administrative, clerical, and technical supportive services in compliance with this section and
4 Section 2070 for a licensed physician and surgeon or a licensed podiatrist, or group thereof, for a
5 medical or podiatry corporation; for a physician assistant, a nurse practitioner, or a certified
6 nurse-midwife as provided in subdivision (a), or for a health care service plan, who is at least 18
7 years of age, and who has had at least the minimum amount of hours of appropriate training
8 pursuant to standards established by the board. The medical assistant shall be issued a certificate
9 by the training institution or instructor indicating satisfactory completion of the required training.
10 A copy of the certificate shall be retained as a record by each employer of the medical assistant.

11 “(2) ‘Specific authorization’ means a specific written order prepared by the supervising
12 physician and surgeon or the supervising podiatrist, or the physician assistant, the nurse
13 practitioner, or the certified nurse-midwife as provided in subdivision (a), authorizing the
14 procedures to be performed on a patient, which shall be placed in the patient’s medical record, or
15 a standing order prepared by the supervising physician and surgeon or the supervising podiatrist,
16 or the physician assistant, the nurse practitioner, or the certified nurse-midwife as provided in
17 subdivision (a), authorizing the procedures to be performed, the duration of which shall be
18 consistent with accepted medical practice. A notation of the standing order shall be placed on the
19 patient’s medical record.

20 “(3) ‘Supervision’ means the supervision of procedures authorized by this section by
21 the following practitioners, within the scope of their respective practices, who shall be physically
22 present in the treatment facility during the performance of those procedures:

23 “(A) A licensed physician and surgeon.

24 “(B) A licensed podiatrist.

25 “(C) A physician assistant, nurse practitioner, or certified nurse-midwife as provided in
26 subdivision (a).

27 “(4) (A) ‘Technical supportive services’ means simple routine medical tasks and
28

1 procedures that may be safely performed by a medical assistant who has limited training and who
2 functions under the supervision of a licensed physician and surgeon or a licensed podiatrist, or a
3 physician assistant, a nurse practitioner, or a certified nurse-midwife as provided in subdivision
4 (a).

5 “(B) Notwithstanding any other law, in a facility licensed by the California State
6 Board of Pharmacy under Section 4180 or 4190, other than a facility operated by the state,
7 ‘technical supportive services’ also includes handing to a patient a prepackaged prescription drug,
8 excluding a controlled substance, that is labeled in compliance with Section 4170 and all other
9 applicable state and federal laws and ordered by a licensed physician and surgeon, a licensed
10 podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife in accordance
11 with subdivision (a). In every instance, prior to handing the medication to a patient pursuant to
12 this subparagraph, the properly labeled and prepackaged prescription drug shall have the patient’s
13 name affixed to the package and a licensed physician and surgeon, a licensed podiatrist, a
14 physician assistant, a nurse practitioner, or a certified nurse-midwife shall verify that it is the
15 correct medication and dosage for that specific patient and shall provide the appropriate patient
16 consultation regarding use of the drug.

17 “(c) Nothing in this section shall be construed as authorizing any of the following:

18 “(1) The licensure of medical assistants.

19 “(2) The administration of local anesthetic agents by a medical assistant.

20 “(3) The board to adopt any regulations that violate the prohibitions on diagnosis or
21 treatment in Section 2052.

22 “(4) A medical assistant to perform any clinical laboratory test or examination for
23 which he or she is not authorized by Chapter 3 (commencing with Section 1200).

24 “(5) A nurse practitioner, certified nurse-midwife, or physician assistant to be a
25 laboratory director of a clinical laboratory, as those terms are defined in paragraph (8) of
26 subdivision (a) of Section 1206 and subdivision (a) of Section 1209.

27 “(d) A nurse practitioner, certified nurse-midwife, or physician assistant shall not

28 //

1 authorize a medical assistant to perform any clinical laboratory test or examination for which the
2 medical assistant is not authorized by Chapter 3 (commencing with Section 1200). A violation of
3 this subdivision constitutes unprofessional conduct.

4 “(e) Notwithstanding any other law, a medical assistant shall not be employed for
5 inpatient care in a licensed general acute care hospital, as defined in subdivision (a) of Section
6 1250 of the Health and Safety Code.”

7 10. Section 2264 of the Code states:

8 “The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person
9 or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any
10 other mode of treating the sick or afflicted which requires a license to practice constitutes
11 unprofessional conduct.”

12 11. Section 3502 of the Code states:

13 “(a) Notwithstanding any other law, a physician assistant may perform those medical
14 services as set forth by the regulations adopted under this chapter when the services are rendered
15 under the supervision of a licensed physician and surgeon who is not subject to a disciplinary
16 condition imposed by the Medical Board of California prohibiting that supervision or prohibiting
17 the employment of a physician assistant. The medical record, for each episode of care for a
18 patient, shall identify the physician and surgeon who is responsible for the supervision of the
19 physician assistant.

20 “(b)(1) Notwithstanding any other law, a physician assistant performing medical services
21 under the supervision of a physician and surgeon may assist a doctor of podiatric medicine who is
22 a partner, shareholder, or employee in the same medical group as the supervising physician and
23 surgeon. A physician assistant who assists a doctor of podiatric medicine pursuant to this
24 subdivision shall do so only according to patient-specific orders from the supervising physician
25 and surgeon.

26 “(2) The supervising physician and surgeon shall be physically available to the
27 physician assistant for consultation when that assistance is rendered. A physician assistant

28 //

1 assisting a doctor of podiatric medicine shall be limited to performing those duties included
2 within the scope of practice of a doctor of podiatric medicine.

3 “(c)(1) A physician assistant and his or her supervising physician and surgeon shall
4 establish written guidelines for the adequate supervision of the physician assistant. This
5 requirement may be satisfied by the supervising physician and surgeon adopting protocols for
6 some or all of the tasks performed by the physician assistant. The protocols adopted pursuant to
7 this subdivision shall comply with the following requirements:

8 “(A) A protocol governing diagnosis and management shall, at a minimum, include
9 the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or
10 assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and
11 education to be provided to the patient.

12 “(B) A protocol governing procedures shall set forth the information to be provided
13 to the patient, the nature of the consent to be obtained from the patient, the preparation and
14 technique of the procedure, and the follow up care.

15 “(C) Protocols shall be developed by the supervising physician and surgeon or
16 adopted from, or referenced to, texts or other sources.

17 “(D) Protocols shall be signed and dated by the supervising physician and surgeon
18 and the physician assistant.

19 “(2)(A) The supervising physician and surgeon shall use one or more of the following
20 mechanisms to ensure adequate supervision of the physician assistant functioning under the
21 protocols:

22 “(i) The supervising physician and surgeon shall review, countersign, and date a
23 sample consisting of, at a minimum, 5 percent of the medical records of patients treated by the
24 physician assistant functioning under the protocols within 30 days of the date of treatment by the
25 physician assistant.

26 “(ii) The supervising physician and surgeon and physician assistant shall conduct a
27 medical records review meeting at least once a month during at least 10 months of the year.
28 During any month in which a medical records review meeting occurs, the supervising physician

1 and surgeon and physician assistant shall review an aggregate of at least 10 medical records of
2 patients treated by the physician assistant functioning under protocols. Documentation of
3 medical records reviewed during the month shall be jointly signed and dated by the supervising
4 physician and surgeon and the physician assistant.

5 “(iii) The supervising physician and surgeon shall review a sample of at least 10
6 medical records per month, at least 10 months during the year, using a combination of the
7 countersignature mechanism described in clause (i) and the medical records review meeting
8 mechanism described in clause (ii). During each month for which a sample is reviewed, at least
9 one of the medical records in the sample shall be reviewed using the mechanism described in
10 clause (i) and at least one of the medical records in the sample shall be reviewed using the
11 mechanism described in clause (ii).

12 “(B) In complying with subparagraph (A), the supervising physician and surgeon
13 shall select for review those cases that by diagnosis, problem, treatment, or procedure represent,
14 in his or her judgment, the most significant risk to the patient.

15 “(3) Notwithstanding any other law, the Medical Board of California or the board
16 may establish other alternative mechanisms for the adequate supervision of the physician
17 assistant.

18 “(d) No medical services may be performed under this chapter in any of the following
19 areas:

20 “(1) The determination of the refractive states of the human eye, or the fitting or
21 adaptation of lenses or frames for the aid thereof.

22 “(2) The prescribing or directing the use of, or using, any optical device in
23 connection with ocular exercises, visual training, or orthoptics.

24 “(3) The prescribing of contact lenses for, or the fitting or adaptation of contact
25 lenses to, the human eye.

26 “(4) The practice of dentistry or dental hygiene or the work of a dental auxiliary as
27 defined in Chapter 4 (commencing with Section 1600).

28 //

1 “(e) This section shall not be construed in a manner that shall preclude the performance of
2 routine visual screening as defined in Section 3501.

3 “(f) Compliance by a physician assistant and supervising physician and surgeon with this
4 section shall be deemed compliance with Section 1399.546 of Title 16 of the California Code of
5 Regulations.

6 12. Section 7320.5 of the Code, regarding aestheticians provides that any licensee who
7 uses a laser in the treatment of any human being is guilty of a misdemeanor.

8 13. Section 2266 of the Code provides that the failure to maintain adequate and accurate
9 records relating to the provision of medical services to a patient constitutes unprofessional
10 conduct.

11 14. The following sections of Title 16 of the California Code of Regulations provide, in
12 pertinent part, as follows:

13 A. Section 1399.521, states:

14 “In addition to the grounds set forth in section 3527, subdivision (a), of the Code, the board
15 may deny, issue subject to terms and conditions, suspend, revoke or place on probation a
16 physician assistant for the following causes: (a) Any violation of the State Medical
17 Practice Act which would constitute unprofessional conduct for a physician and surgeon.
18 (b) Using fraud or deception in passing an examination administered or approved by the
19 board. (c) Practicing as a physician assistant under a physician who has been prohibited
20 by the Medical Board of California or the Osteopathic Medical Board of California from
21 supervising physician assistants. (d) Performing medical tasks which exceed the scope of
22 practice of a physician assistant as prescribed in these regulations.”

23 B. Section 1399.540 provides:

24 “(a) A physician assistant may only provide those medical services which he or she is
25 competent to perform and which are consistent with the physician assistant's education,
26 training, and experience, and which are delegated in writing by a supervising physician
27 who is responsible for the patients cared for by that physician assistant.

28 “...

1 “(c) The board or Medical Board of California or their representative may require proof
2 or demonstration of competence from any physician assistant for any tasks, procedures or
3 management he or she is performing.

4 “(d) A physician assistant shall consult with a physician regarding any task, procedure or
5 diagnostic problem which the physician assistant determines exceeds his or her level of
6 competence or shall refer such cases to a physician.”

7 C. Section 1399.541, states:

8 “Because physician assistant practice is directed by a supervising physician, and a
9 physician assistant acts as an agent for that physician, the orders given and tasks
10 performed by a physician assistant shall be considered the same as if they had been given
11 and performed by the supervising physician. Unless otherwise specified in these
12 regulations or in the delegation or protocols, these orders may be initiated without the
13 prior patient specific order of the supervising physician.”

14 “In any setting, including for example, any licensed health facility, out-patient settings,
15 patients' residences, residential facilities, and hospices, as applicable, a physician assistant
16 may, pursuant to a delegation and protocols where present:

17 “(a) Take a patient history; perform a physical examination and make an assessment and
18 diagnosis therefrom; initiate, review and revise treatment and therapy plans including
19 plans for those services described in Section 1399.541(b) through Section 1399.541(i)
20 inclusive; and record and present pertinent data in a manner meaningful to the physician.

21 “(b) Order or transmit an order for x-ray, other studies, therapeutic diets, physical therapy,
22 occupational therapy, respiratory therapy, and nursing services.

23 “(c) Order, transmit an order for, perform, or assist in the performance of laboratory
24 procedures, screening procedures and therapeutic procedures.

25 “(d) Recognize and evaluate situations which call for immediate attention of a physician
26 and institute, when necessary, treatment procedures essential for the life of the patient.

27 “(e) Instruct and counsel patients regarding matters pertaining to their physical and mental
28 health. Counseling may include topics such as medications, diets, social habits, family

1 planning, normal growth and development, aging, and understanding of and long-term
2 management of their diseases.

3 “(f) Initiate arrangements for admissions, complete forms and charts pertinent to the
4 patient's medical record, and provide services to patients requiring continuing care,
5 including patients at home.

6 “(g) Initiate and facilitate the referral of patients to the appropriate health facilities,
7 agencies, and resources of the community.

8 “(h) Administer or provide medication to a patient, or issue or transmit drug orders orally
9 or in writing in accordance with the provisions of subdivisions (a) – (f) of the Code.

10 “(i) (1) Perform surgical procedures without the personal presence of the supervising
11 physician which are customarily performed under local anesthesia. Prior to delegating
12 any such surgical procedures, the supervising physician shall review documentation which
13 indicates that the physician assistant is trained to perform the surgical procedures. All
14 other surgical procedures requiring other forms of anesthesia may be performed by a
15 physician assistant only in the personal presence of a supervising physician.

16 “(2) A physician assistant may also act as first or second assistant in surgery
17 under the supervision of an approved supervising physician. The physician assistant may
18 so act without the personal presence of the supervising physician if the supervising
19 physician is immediately available to the physician assistant. ‘Immediately available’
20 means the physician is physically accessible and able to return to the patient, without any
21 delay, upon the request of the physician assistant to address any situation requiring the
22 supervising physician's services.

23 D. Section 1399.542, states:

24 “The delegation of procedures to a physician assistant under Section 1399.541,
25 subsections (b) and (c) shall not relieve the supervising physician of primary continued
26 responsibility for the welfare of the patient.”

27 //

28 //

1 E. Section 1399.543, states:

2 "A physician assistant may be trained to perform medical services which augment his or
3 her current areas of competency in the following settings:

4 "(a) In the physical presence of an approved supervising physician who is directly in
5 attendance and assisting the physician assistant in the performance of the procedure;

6 "(b) In an approved program;

7 "(c) In a medical school approved by the Medical Board of California under Section 1314;

8 "(d) In a residency or fellowship program approved by the Medical Board of California
9 under Section 1321;

10 "(e) In a facility or clinic operated by the Federal government;

11 "(f) In a training program which leads to licensure in a healing arts profession or is
12 approved as Category I continuing medical education or continuing nursing education by
13 the Board of Registered Nursing."

14 F. Section 1399.545, states:

15 "(a) A supervising physician shall be available in person or by electronic communication
16 at all times when the physician assistant is caring for patients.

17 "(b) A supervising physician shall delegate to a physician assistant only those tasks and
18 procedures consistent with the supervising physician's specialty or usual and customary
19 practice and with the patient's health and condition.

20 "(c) A supervising physician shall observe or review evidence of the physician assistant's
21 performance of all tasks and procedures to be delegated to the physician assistant until
22 assured of competency.

23 "(d) The physician assistant and the supervising physician shall establish in writing
24 transport and back-up procedures for the immediate care of patients who are in need of
25 emergency care beyond the physician assistant's scope of practice for such times when a
26 supervising physician is not on the premises.

27 "(e) A physician assistant and his or her supervising physician shall establish in writing
28 guidelines for the adequate supervision of the physician assistant which shall include, one

1 or more of the following mechanisms:

2 “(1) Examination of the patient by a supervising physician the same day as care is
3 given by the physician assistant;

4 “(2) Countersignature and dating of all medical records written by the physician
5 assistant within thirty (30) days that the care was given by the physician assistant;

6 “(3) The supervising physician may adopt protocols to govern the performance of a
7 physician assistant for some or all tasks. The minimum content for a protocol governing
8 diagnosis and management as referred to in this section shall include the presence or
9 absence of symptoms, signs, and other data necessary to establish a diagnosis or
10 assessment, any appropriate tests or studies to order, drugs to recommend to the patient,
11 and education to be given the patient. For protocols governing procedures, the protocol
12 shall state the information to be given the patient, the nature of the consent to be obtained
13 from the patient, the preparation and technique of the procedure, and the follow-up care.
14 Protocols shall be developed by the physician, adopted from, or referenced to, texts or
15 other sources. Protocols shall be signed and dated by the supervising physician and the
16 physician assistant. The supervising physician shall review, countersign, and date a
17 minimum of 5% sample of medical records of patients treated by the physician assistant
18 functioning under these protocols within thirty (30) days. The physician shall select for
19 review those cases which by diagnosis, problem, treatment or procedure represent, in him
20 or her judgment, the most significant risk to the patient;

21 “(4) Other mechanisms approved in advance by the Board.

22 “(f) The supervising physician has continuing responsibility to follow the progress of the
23 patient and to make sure that the physician assistant does not function autonomously.
24 The supervising physician shall be responsible for all medical services provided by a
25 physician assistant under his or her supervision.”

26 G. Section 1366, states:

27 “(a) A medical assistant may perform additional technical supportive services
28 such as those specified herein provided that all of the following conditions are met:

1 “(1) Each technical supportive service is not prohibited by another provision
2 of law, including Section 2069(c) of the code, or these regulations, and is a usual
3 and customary part of the medical or podiatric practice where the medical assistant
4 is employed;

5 “(2) The supervising physician or podiatrist authorizes the medical assistant to
6 perform the service and shall be responsible for the patient’s treatment and care;

7 “(3) The medical assistant has completed the training specified in Sections
8 1366.2, 1366.3, and 1366.4 and has demonstrated competence in the performance
9 of the service;

10 “(4) A record shall be made in the patient chart or other record, including a
11 computerized record, if any, of each technical supportive service performed by the
12 medical assistant, indicating the name, initials or other identifier of the medical
13 assistant, the date and time, a description of the service performed, and the name
14 of the physician or podiatrist who gave the medical assistant patient-specific
15 authorization to perform the task or who authorized such performance under a
16 patient-specific standing order.

17 “(5) The supervising physician or podiatrist may, at his or her discretion,
18 provide written instructions to be followed by a medical assistant in the
19 performance of tasks or supportive services. Such written instructions may
20 provide that a physician assistant or registered nurse may assign a task authorized
21 by a physician or podiatrist.

22 “(b) A medical assistant in accordance with the provisions of subsection (a)
23 may perform additional technical supportive services such as the following:

24 “(1) Administer medication orally, sublingually, topically, vaginally or
25 rectally, or by providing a single dose to a patient for immediate self-
26 administration. Administer medication by inhalation if the medications are
27 patient-specific and have been or will be routinely and repetitively administered to
28 that patient. In every instance, prior to administration of medication by the

1 medical assistant, a licensed physician or podiatrist, or another person authorized
2 by law to do so shall verify the correct medication and dosage. Nothing in this
3 section shall be construed as authorizing the administration of any anesthetic agent
4 by a medical assistant.

5 “(2) Perform electrocardiogram, electroencephalogram, or plethysmography
6 tests, except full body plethysmography. Nothing in this section shall permit a
7 medical assistant to perform tests involving the penetration of human tissues
8 except for skin tests as provided in Section 2069 of the code, or to interpret test
9 findings or results.

10 “...

11 “(11) Perform simple laboratory and screening tests customarily performed in
12 a medical office.

13 “...

14 “(e) Nothing in these regulations shall be construed to modify the requirement
15 that a licensed physician or podiatrist be physically present in the treatment facility
16 as required in Section 2069 of the code.

17 “...”

18 H. Section 1366.1, states:

19 “In order to administer medications by intramuscular, subcutaneous and
20 intradermal injection, to perform skin tests, or to perform venipuncture of skin
21 puncture for the purposes of withdrawing blood, a medical assistant shall have
22 completed the minimum training prescribed herein. Training shall be for the
23 duration required by the medical assistant to demonstrate to the supervising
24 physician, podiatrist, or instructor, as referenced in Section 1366.3(a)(2),
25 proficiency in the procedures to be performed as authorized by Sections 2069 or
26 2070 of the code, where applicable, but shall include no less than:

27 “(a) Ten (10) clock hours of training in administering injections and
28 performing skin tests, and/or

1 “(b) Ten (10) clock hours of training in venipuncture and skin puncture for the
2 purpose of withdrawing blood, and

3 “(c) Satisfactory performance by the trainee of at least ten (10) each of
4 intramuscular, subcutaneous, and intradermal injections and ten (10) skin tests,
5 and/or at least ten (10) venipunctures and ten (10) skin punctures.

6 “...

7 “(e) Training in (a) through (d) above, shall include instruction and
8 demonstration in:

9 “(1) pertinent anatomy and physiology appropriate to the procedures;

10 “(2) choice of equipment;

11 “(3) proper technique including sterile technique;

12 “(4) hazards and complications;

13 “(5) patient care following treatment or test;

14 “(6) emergency procedures; and

15 “(7) California law and regulations for medical assistants.”

16 I. Section 1366.2, states:

17 “Prior to performing any of the additional technical supportive services
18 provided in Section 1366, a medical assistant shall receive such training as, in the
19 judgement of the supervising physician, podiatrist or instructor, as referenced in
20 Section 1366.3(a)(2), is necessary to assure the medical assistant’s competence in
21 performing that service at the appropriate standard of care. Such training shall be
22 administered pursuant to either subsection (a)(1) or (a)(2) of Section 1366.3.”

23 J. Section 1366.3, states:

24 “(a) Training required in Sections 1366, 1366.1 or 1366.2 may be
25 administered in either of these settings:

26 “(1) Under a licensed physician or podiatrist, who shall ascertain the
27 proficiency of the medical assistant; or under a registered nurse, licensed
28 vocational nurse, physician assistant or a qualified medical assistant acting under

1 the direction of a licensed physician or podiatrist who shall be responsible for
2 determining the content of the training and the proficiency of the medical assistant
3 except that training to administer medication by inhalation shall be provided by a
4 licensed physician or respiratory care practitioner; or

5 “(2) In a secondary, postsecondary, or adult education program in a public
6 school authorized by the Department of Education, in a community college
7 program provided for in Part 48 of Division 7 of the Education Code, or a
8 postsecondary institution accredited by an accreditation agency recognized by the
9 United States Department of Education or approved by the Bureau for Private
10 Postsecondary and Vocational Education under Sections 94130 or 94311 of the
11 Education Code. ...

12 “(b) The supervising physician or podiatrist, pursuant to subsection (a)(1) or
13 the instructor pursuant to subsection (a)(2) shall certify in writing the place and
14 date such training was administered, the content and duration of the training, and
15 that the medical assistant was observed by the certifying physician, podiatrist, or
16 instructor to demonstrate competence in the performance of each such task or
17 service, and shall sign the certification. More than one task or service may be
18 certified in a single document; separate certifications shall be made for subsequent
19 training in additional tasks or services.

20 “(c) For purposes of this section only, a ‘qualified medical assistant’ is a
21 medical assistant who:

22 “(1) is certified by a medical assistant certifying organization approved by the
23 division;

24 “(2) holds a credential to teach in a medical assistant training program at a
25 community college; or

26 “(3) is authorized to teach medical assistants in a private postsecondary
27 institution accredited by an accreditation agency recognized by the United States
28

1 Department of Education or approved by the Bureau for Private Postsecondary and
2 Vocational Education.”

3 FACTUAL SUMMARY

4 15. Skin Perfect Medical Aesthetic, Inc., a.k.a. Skin Perfect Brothers (“Skin Perfect”),
5 located at 1569 S. Fairway Drive #226, in Walnut, California, is a business jointly owned by Fei
6 Fan Liu, a physician assistant, and Respondent, a pathologist. Skin Perfect is a day spa which
7 offers medical services to patients. On May 6, 2011, fictitious name permit number (“FNP”)
8 41386 was issued for Skin Perfect Medical. The FNP listed Skin Perfect Medical as a corporation
9 formed on August 23, 2004. On September 27, 2015, Skin Perfect filed a Statement of
10 Information with the California Secretary of State naming the following persons as directors: Fei-
11 Fan Liu, Respondent and Fei-Pi Liu (the brother of Fei Fan Liu, who is also a physician
12 assistant). Fei-Fan Liu was identified as the Chief Executive Officer, Secretary and Chief
13 Financial Officer of Skin Perfect. From June 2015 to June 2018, Respondent Qasim and
14 Physician Assistant Fei Fan Liu operated Skin Perfect while this fictitious name permit was
15 delinquent and invalid. Skin Perfect employed approximately 25 people including licensed
16 registered and vocational nurses, licensed physician assistants, receptionists, and aestheticians,
17 and rendered dermatological care and cosmetic treatments to approximately 50 to 100 patients per
18 day, typically Tuesdays through Saturdays.

19 16. Respondent is the medical director and joint owner of Skin Perfect. Between 2011
20 and the present, Respondent Qasim was paid as an employee of Skin Perfect, and was paid non-
21 hourly wages, less standard employee deductions. Respondent is a pathologist, and as such, the
22 dermatological and cosmetic treatments rendered by Fei Fan Liu and others at Skin Perfect was
23 outside of the scope of Respondent’s medical specialty. Respondent is not board certified in the
24 field of Dermatology. She did not participate in a dermatology internship, residency or
25 fellowship. On June 18, 2009, Respondent entered a delegation of services agreement with Fei
26 Fan Liu, but did not adequately supervise him. Respondent typically came to Skin Perfect only
27 on Saturdays, but did not see patients. She did not perform procedures, except as may be
28 necessary to demonstrate something for a new employee. She occasionally reviewed charts and

1 provided training to employees. She did not herself supervise any treatments rendered to Skin
2 Perfect patients. In fact, between 2011 and the present, no doctor was routinely present at Skin
3 Perfect treating or supervising the treatment of patients. Instead, Fei Fan Liu, a physician
4 assistant, independently supervised medical treatments rendered by unlicensed individuals
5 employed at Skin Perfect. Also from 2011 to present, Respondent has been employed full time
6 at other medical facilities. She typically worked at the other medical facilities Monday through
7 Friday. Her employers included Kaiser Permanente, and then later, a hospital in Long Beach,
8 California.

9 17. C.H. is a medical doctor with a specialty in dermatology. C.H. is on the payroll of
10 Skin Perfect at a fixed fee per month. He occasionally consults with and trains staff but does not
11 supervise employees or perform routine procedures. C.H. only performed dermatology
12 consultations as needed, coming in to assist with patients who had more complicated skin
13 conditions. C.H. consulted with Fei Fan Liu, although there was no delegation of services
14 agreement between Fei Fan Liu and C.H. According to other employees, C.H. did not come to
15 work on a regular basis for the past two and a half (2.5) years but is "available by phone" for
16 questions and, according to other employees, has only come to the office about three times per
17 year, typically to train staff.

18 18. A Delegation of Services Agreement ("the Agreement") was entered into between Fei
19 Fan Liu and Respondent on June 18, 2009. The Agreement describes Fei Fan Liu's duties as
20 obtaining history and physicals, injecting keloids, fillers, Botox and vitamins, applying chemical
21 peels, fraxel laser, Intense Pulse Laser (IPL), and monitoring for adverse reactions to any of those
22 treatments. In the Agreement, Respondent and Fei Fan Liu agreed to physician audit review of at
23 least 5% of his medical records. The Agreement did not authorize Fei Fan Liu to supervise any
24 medical care to be rendered by a medical assistant or any other unlicensed employee. The
25 agreement between Respondent and Fei Fan Liu was inadequate as it lacked any protocols for
26 treatment such as what to do under different circumstances. In compensation, Respondent was
27 issued 51,000 shares and Fei Fan Liu was issued 49,000 shares in Skin Perfect. This Agreement
28 remained in effect from June 2009 until July 2018, at which time it was updated, after

1 Respondent became aware that Skin Perfect was under investigation. Fei Fan Liu maintained a
2 website at www.skinperfectbrothers.com. The website contained no information about any
3 physician supervising Fei Fan Liu, and promoted Fei Fan Liu as the operator of the spa. Only in
4 October 2018, after Fei Fan Liu became aware that he was under investigation by the Physician
5 Assistant Board, was information regarding Respondent added to the website.

6 19. At Skin Perfect, Fei Fan Liu performs "dermatological oriented" histories and
7 physical exams on patients. He treats patients with acne or sunspots. Respondent was not
8 physically present while Fei Fan Liu performed most of these procedures.

9 20. Respondent allowed unlicensed and unqualified individuals to perform numerous
10 medical treatments at Skin Perfect without proper and adequate supervision. These treatments
11 included: (1) the use of an IPL machine, the performance of laser hair removal, laser genesis, vein
12 laser treatment, and fraxel laser; (2) Plasma Rich Platelets (PRP) treatments, a.k.a. a "Vampire
13 Facelift," which involves the drawing of blood, isolating the platelets, and injecting the platelets
14 into the patient's face; and (3) acne treatments. All of these treatments must be performed by a
15 licensed doctor or by qualified individuals under the supervision of a licensed physician. The
16 drawing of human blood must be performed by a properly licensed person, including a
17 phlebotomist.

18 21. Employee J.S. is an unlicensed individual who, on a regular basis from 2011 to 2017,
19 injected Botox, operated the IPL machine and laser equipment, performed laser hair removal, and
20 mixed fillers for injection. J.S. received training in laser treatments and performed laser
21 treatments on patients, including treating patients with sun spots. J.S. is not licensed to perform
22 any medical procedure. J.S. was supervised by Fei Fan Liu.

23 22. Employee R.P., is an aesthetician and also office manager who was trained on the
24 laser equipment by the machine manufacturing company representatives and who, from 2011 to
25 the present, on a regular basis, performed laser treatments, including treating patients with sun
26 spots, mixed filler and injected Botox into patients. R.P. was supervised by Fei Fan Liu.

27 23. Employee T.C. is a licensed aesthetician who, from 2011 to the present, on a regular
28 basis, injected fillers, mixed fillers for injection and drew blood from patients for PRP

1 treatments, from about October 2011 to present, on a regular basis, during which time she was not
2 licensed to perform any medical procedure, and did not have the requisite phlebotomy
3 certification or training required to draw blood. T.C. received training in laser treatments and
4 performed laser treatments on patients, including treating patients with sun spots. T.C. performed
5 IV injections, acne injections, and various laser treatments while she was unqualified to do so,
6 from October 2011 to present. T.C. was supervised by Fei Fan Liu.

7 24. Employee W.K. is a licensed aesthetician. She was trained to give laser treatments
8 by the office manager, R.P. From 2014 through 2017, on a regular basis W.K. performed laser
9 treatments on patients. W.K. was supervised by Fei Fan Liu.

10 25. Employee J.L. was a front desk employee who, from 2010 to 2016, on a regular basis,
11 was allowed to perform laser treatments on patients, including patients with sun spots. J.L. was
12 employed and supervised by Fei Fan Liu.

13 26. Employee K.L. was a front desk employee who, from 2012 to 2014, on a regular
14 basis was allowed to perform laser treatments on patients, including patients with sun spots. K.L.
15 was employed and supervised by Fei Fan Liu.

16 **FIRST CAUSE FOR DISCIPLINE**

17 (Aiding or Abetting Unlicensed Practice)

18 27. Respondent is subject to disciplinary action under sections 2234, 2234, subdivision
19 (a), 2052, and 2264 of the Code and Title 16 California Code of Regulations sections 1366,
20 1366.1, 1366.2, 1366.3, 1399.521, 1399.540, 1399.541, 1399.542, 1399.543, and 1399.545, in
21 that she aided and abetted unlicensed persons -- T.C., R.P., J.S., W.K., J.L. and K.L. -- to engage
22 in the practice of medicine. The facts and circumstances alleged in paragraphs 15 through 26, are
23 incorporated herein as if fully set forth.

24 28. Respondent aided and abetted the practice of medicine as follows:

25 A. She created a medical business venture in the field of dermatology with Fei Fan
26 Liu, including treating acne and sunspots, which were outside her field of medicine (that is,
27 pathology). Respondent over time increasingly allowed Fei Fan Liu to work independently
28 without adequate physician supervision and outside her field of medicine, from October 2011 to

1 the present, on a regular basis. She violated the Physician Assistant Practice Act in allowing
2 medical assistants to perform tasks they were not properly trained to do, including performing
3 treatments and procedures in the field of dermatology, treating sunspots, using lasers, and by
4 drawing blood. Respondent allowed Fei Fan Liu to practice dermatology, when she was not
5 adequately trained or certified in dermatology, and not qualified to delegate these tasks. These
6 acts are in violation of Business and Professions Code section 3502.

7 B. She allowed T.C., a licensed aesthetician, and R.P. to draw blood from in or
8 about October 2011 to the present, when those persons did not have the requisite phlebotomy
9 certification or training. Also from October 2011 to present, on a regular basis, she allowed
10 employee T.C. to inject patients with fillers, to perform IV injection, acne injections, and various
11 laser treatments which employee T.C. was unqualified to do. Title 16, California Code of
12 Regulations, section 1366.1 provides that: "In order to administer medications by intramuscular,
13 subcutaneous and intradermal injection, to perform skin test, or to perform venipuncture or skin
14 puncture for the purposes of withdrawing blood, a medical assistant shall have completed the
15 minimal training prescribed herein. Training shall be for the duration required by the medical
16 assistants to demonstrate to the supervising physician, podiatrist, or instructor, as referenced in
17 Section 1366.3(a)(2)..." In addition, Code section 1246 provides that "He or she works under the
18 supervision of a licensed physician or of a licensed registered nurse." Respondent was not at the
19 clinic during these procedures and Fei Fan Liu is not a registered nurse.

20 C. She allowed R.P., T.C., and J.S. to inject Botox into patients from 2012 to
21 present, on a regular basis, while they were unqualified to do so. The FDA classifies all dermal
22 fillers as devices. It states that "a registered nurse may dispense drugs or devices upon an order
23 by a licensed physician and surgeon." The comparable governance of Licensed Vocational
24 Nurses (LVN's) only covers drugs not devices. Since fillers are regulated by the FDA as devices
25 and not medications, they cannot be legally injected by LVN's or aestheticians. Unlicensed
26 medical assistants, licensed vocational nurses, cosmetologists, electrologists, or aestheticians may
27 not legally perform these treatments under any circumstance with the exception that licensed
28

1 vocational nurses may inject Botox. "No unlicensed persons, such as medical assistants, may
2 inject Botox."

3 D. She allowed W.K., T.C., J.S., J.L., K.L., and R.P. to give laser treatments to
4 patients from about 2011 to present, while they were unqualified to do so. Only physicians,
5 physician assistants under direct physician supervision, and registered nurses may use lasers or
6 intense pulse light devices and inject Botox. Business and Professions Code section 7320.5,
7 explicitly prohibits aestheticians from using laser treatments on human beings.

8 E. Specific instances of the above stated violations are as follows. Former Skin
9 Perfect employee J.L. provided five (5) photographs that she took on about September 29, 2016.
10 The photos are of computer appointment calendars of Skin Perfect for the week of September 17,
11 2016. She also provided two (2) photos taken on about July 13, 2016, of the July 16, 2016
12 appointment schedule. The schedules showed the procedures, employee name, patient name and
13 notes that were scheduled and which are characteristic of the conduct alleged in the preceding
14 paragraphs. Moreover, employee J.L. was present and observed the procedures being done. The
15 details are as follows.

16 F. Each of the employees listed on the following chart is an aesthetician. In
17 California, aestheticians (or estheticians), are licensed by the California Board of Barbering and
18 Cosmetology to cleanse and treat the skin, typically giving facials, applying makeup, applying
19 eyelashes, removing hair (by waxing or tweezing), and providing skin care, which can include
20 microdermabrasion services. It includes beautifying the face, neck, arms, or upper body (from the
21 shoulders up) by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
22 Aestheticians cannot penetrate the skin. The operation of aesthetic lasers in California is limited
23 to registered nurses, nurse practitioners, physician assistants, and doctors. Doctors are not
24 permitted to delegate laser services to employees who do not meet those criteria.

25 G. Aestheticians are not allowed to perform – even under supervision – Spectra
26 Laser, Laser Genesis, Ultherapy, and Fraxel Laser Skin Resurfacing.

27 H. Keloid injection is a treatment that is only allowed if the aesthetician is
28 supervised.

1 I. A PRP blood draw is a treatment that is only allowed if the aesthetician has had
2 documented training and is supervised.

3 J. IV Lite is a treatment that may not be performed by aestheticians if the
4 procedure involves introducing any medication or material into a vein or affecting a vein in any
5 way because aestheticians are only allowed to treat superficial skin.

6 //

7 //

8 //

9 //

10 //

11 //

12 //

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

Photo #	Column	Procedure	Employee	Patient Name	Notes
1	Silkpeel/ Meso / IV T.C. 9am-6pm	Spectra Laser	T.C.	Y. H.	XX
		"	"	B. G.	
		"	"	J. P.	XX
		Laser Genesis	"	I. M.	
		IV Lite	"	M. Y. C.	
		"	"	K. L.	XX
		"	"	S. A.	
		"	"	J. N. W	
		Keloid Injection	"	M. A.	\$1009.89
		IV Lite	"	M. W.	***
		PRP Blood draw	"	K. W.	
		"	"	B. L.	
		IV Lite	"	E. N.	
	CoolSculpting / Other	Silk Peel Standard	R.P.	G. C. 12/13/62	
		Laser Genesis	R.P.	G. C. 12/13/62	
		Ultherapy	R.P.	Y. X.	\$850.00
		Silk Peel Standard	R.P.	B. C.	\$99.99
		Laser Genesis	illegible	B. C.	\$99.99
		Consult New Laser	R.P.	J. K.	
		Consult New WL		A. W.	\$3499.99
2	CoolSculpting / Other R. P. 9am-6pm	Ultherapy Full Face	R. P.	M. R.	\$3600.00
		CoolSculpting small	"	R. T.	
		"	"	R. T.	
		Fraxel-Full Face	"	T. C	
	Silk Peel 3 J.S. 10am-6pm	General numbing	J. S.	M. R.	
		Spectra Laser	"	M. S.-Y.C.	
		Micropen	"	T. M.	
		Micropen Diamond	"	R. N.	\$399.98
		Laser Genesis	T.C.	R. N.	\$399.98
		Ultherapy Lower Face	"	M. S.	
		Ultherapy Full Neck	"	M. S.	
		Micropen Diamond	"	J. L.	
	Numbing Column	General Numbing	T.C. or J.S.	K. Z.	
		General Numbing	T.C.	R. N.	
		General Numbing	T.C.	M. S.	
3	CoolSculpting / Other R. P. 9am-6pm	Spectra Laser	R.P.	S. Z.	
		Spectra Laser	"	J. D.	
		Ultherapy Full Face	"	J. L.	
		Acne Facial	"	A. Z.	
	Silk Peel 3 J.C.	CoolSculpting Small	J.S.	J. N. V.	\$1500.00

	10am-6pm				
1		"	"	J. N. V.	\$1500.00
2		Micropen Silver	"	E. S.	
3		Spectra Laser	"	A. S.	\$320.00
4	Numbing Column	General Numbing	R.P. or T.C.	J. L.	
5		"	C. L.	R. D.	
6		"	J.C.	K. A.	
7		"	T.S.	J. Y. Z.	X
8		"	R.P.	S. H.	
9		General Numbing	T.S.	R. C.	
10	4	CoolSculpting / Other R.P. 9am-6pm	Sculpting Small	J.S.	R. A.
11			Sculpting Small	J.S.	R. A.
12			Consult New Laser	J.S. or R.P.	--ima R.
13			CoolSculpting Small	J.S. or R.P.	W. J. T.
14			CoolSculpting Small	R.P.	W. J. T.
15		Silk Peel 3	Micropen Silver	R.P.	H. Y.
16			Silk Peel Standard	J.S.	Dr. Yasmin Qasim
17			Spectra Laser	"	"
18			Oxygen-Standard	"	"
19			Micropen Silver	"	T. V.
20		Numbing Column	General Numbing	T.C.	S. Y.
21			General Numbing	T.C.	X. D. C.
22			General Numbing	J.S.	T. V.
23			General Numbing	? ¹	L. S.
24	5		Micropen Diamond	"	G.Y.
25			Ultherapy Lower Face	"	C. V.
26			Silk Peel Standard	"	B. C.
27			Laser Genesis	"	R. B.
28			VT-15 Minutes	"	"
29		Numbing Column	General Numbing	T.C.	S. G.
30			"	T.C.	G. Y.
31			"	T.C.	C. V.

K. Former Skin Perfect employee J.L. provided two (2) Yelp reviews that reveal as follows:

1. On about June 13, 2016 employee J.C. performed heated keloid injections, fraxel treatment and micropen treatment on patient M.A.
2. On or about April 6, 2016, employee T.C. performed laser tattoo removal on patient S.L.

¹ The name of the service provider is known to Respondent.

1 L. On October 2, 2018, Respondent was interviewed by a Health Quality
2 Enforcement Investigator. Respondent admitted that she has been employed by other employers,
3 during the time she was responsible for supervising Skin Perfect. For a period of time, she was
4 employed full time by another employer. For another period of time, she was employed part time
5 by two employers. Respondent claimed that she reviewed about two (2) to five (5) percent of the
6 charts of Skin Perfect. Respondent admitted that she visited Skin Perfect on Saturdays and for
7 one half day, during the work week. Respondent admitted that R.P. did draw blood from patients.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Unprofessional Conduct)

10 29. By reason of the facts set forth above in the First Cause for Discipline, Respondent is
11 subject to disciplinary action under Code section 2234, by allowing Fei Fan Liu to exceed the
12 scope of his license as a physician assistant and by aiding or abetting unlicensed persons R.P.,
13 T.C., J.S., J.L., K.L., and W.K. to engage in the practice of medicine.

14 **THIRD CAUSE FOR DISCIPLINE**

15 (Failure to Maintain Active Fictitious Name Permit)

16 30. By reason of the facts set forth above in the First Cause for Discipline, Respondent is
17 subject to disciplinary action under sections 2227 and 2234, as defined by 2285, in that she failed
18 to maintain an active fictitious name permit from the Medical Board of California for her
19 business.

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 **PRAYER**

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:

- 4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 47990,
5 issued to Yasmin Feroz Qasim, M.D.;
- 6 2. Revoking, suspending or denying approval of her authority to supervise physician
7 assistants and advanced practice nurses;
- 8 3. If placed on probation, ordering her to pay the Board the costs of probation
9 monitoring; and
- 10 4. Taking such other and further action as deemed necessary and proper.

11
12 DATED: June 7, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

13
14
15
16
17 LA2016600233
53461263.docx